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SENATE BILL

No. 1225

Introduced by Senator Padilla

(Coauthor: Senator Correa)

(Coauthors: Assembly Members Davis, Galgiani, and Williams)

February 23, 2012

An act to add Sections 14031.9, 14070.3, 14070.5, and 14070.7 to, and to repeal and add Article 5.2 (commencing with Section 14072) of Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1225, as amended, Padilla. Intercity rail agreements.

Existing law authorizes the Department of Transportation to contract with Amtrak for intercity passenger rail services and provides funding for these services from the Public Transportation Account. Existing law, until December 31, 1996, authorized the department, subject to approval of the Secretary of the Business, Transportation and Housing Agency, to enter into an interagency transfer agreement under which a joint powers board assumes responsibility for administering the

state-funded intercity rail service in a particular corridor. Existing law, with respect to a transferred corridor, requires the board to demonstrate the ability to meet performance standards established by the secretary.

This bill would authorize the department, with the approval of the secretary, to enter into an additional interagency transfer agreement with respect to the LOSSAN Corridor, defined to mean the intercity passenger rail corridor between San Diego, Los Angeles, and San Luis Obispo, if the LOSSAN Agency, an existing joint powers agency, is reconstituted through an amended joint powers agreement approved by the governing boards of its members to enable that agency to enter into an interagency transfer agreement with the secretary relative to the LOSSAN Corridor.

~~This bill would require an interagency transfer agreement for the LOSSAN Corridor to cover the initial 3-year period after the transfer. The bill would require a transfer agreement, as provided above, to be entered into by no later than June 30, 2014 2015, subject to negotiation and approval by the state and the LOSSAN Corridor Joint Powers Agency. The bill would require the agreement to cover the initial 3-year period after the transfer. If an agreement is not entered into by that date, the bill would require the secretary to report to the Governor and the Legislature by June 30, 2016, as specified.~~

Existing law requires the level of service to be funded by the state pursuant to a transfer agreement to not be less than the current number of intercity round trips operated in a corridor and serving the same endpoints.

~~This bill would require the service funded by the state in the LOSSAN Corridor to be at an appropriate level as determined in the interagency transfer agreement, and would require the level of funding provided by the state for intercity passenger rail service in the corridor to be maintained at a level at least equal to the current level of service provided in the corridor as of January 1, 2014, for not less than a 3-year period remain the same during the first 3 years following the effective date of the transfer agreement, and would require the LOSSAN Corridor Joint Powers Agency to provide that level of service. The bill would prohibit termination of feeder bus services except for specified reasons.~~

Existing law provides for the allocation of state funds by the secretary to a joint powers board under an interagency transfer agreement based on the annual business plan for the intercity rail corridor and subsequent appropriation of state funds. Existing law states that the interagency transfer agreement may provide that any additional funds required to

operate the passenger rail service during a fiscal year shall be provided by the joint powers board from jurisdictions that receive service.

~~This bill, with respect to the LOSSAN Corridor, would instead provide that those funds may be provided by the board. The bill, with regard to that corridor, would provide that local resources shall not be available to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity rail services. In addition, with regard to that corridor, the bill would require the passenger rail equipment used for intercity passenger rail services to be the same type of equipment used on other state-funded intercity passenger rail services. The bill would prohibit termination of feeder bus services connecting the LOSSAN and San Joaquin Corridors except for specified reasons., if local resources are made available for operating the intercity rail services, require a vote of the local agency providing the resources, and would require the concurrence of the LOSSAN Corridor Joint Powers Agency in that regard.~~

~~This bill would authorize the secretary to adopt new performance standards by December 31, 2014, for intercity rail services in the LOSSAN Corridor.~~

This bill would repeal now-obsolete provisions authorizing the Southern California Regional Rail Authority to be a party to an interagency transfer agreement for intercity rail services in specified counties.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 Intercity Passenger Rail Act of 2012.
- 3 SEC. 2. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) An intercity passenger rail system, linking major urban
- 6 centers and complemented by feeder bus services that provide
- 7 access to outlying areas and destinations, is an important element
- 8 of the state's transportation system, and shall remain a state-funded
- 9 program.
- 10 (2) The state has a continuing interest in the provision of
- 11 cost-effective intercity passenger rail services and has a
- 12 responsibility to coordinate intercity passenger rail services

1 statewide. ~~Some state function needs to be sustained even if the~~
2 ~~responsibility for the current operations on intercity passenger rail~~
3 ~~routes is transferred.~~

4 (3) Since 1976, the state has invested over one billion eight
5 hundred million dollars (\$1,800,000,000) in capital improvements
6 and operating support for intercity passenger rail service and must
7 ensure the protection of that investment.

8 (4) *Intercity rail service and ridership increases will result in*
9 *more jobs, improve air quality, and help promote sustainable*
10 *development.*

11 (b) The Legislature, through the enactment of this act, intends
12 all of the following:

13 (1) The Secretary of Business, Transportation and Housing ~~to~~
14 *shall* be responsible for the overall planning, coordination, and
15 budgeting of the intercity passenger rail service ~~consistent with~~
16 ~~this act.~~

17 (2) If the secretary determines that transferring responsibility
18 for intercity passenger rail service in a particular corridor or
19 corridors to a statutorily created joint powers agency would result
20 in administrative or operating cost reductions, the secretary may
21 authorize the Department of Transportation to enter into an
22 interagency transfer agreement to effect a transfer of those
23 administrative functions, consistent with this act.

24 (3) Any intercity passenger rail corridor for which administrative
25 responsibility has been transferred to a joint powers board through
26 an interagency transfer agreement ~~to~~ *shall* remain a component of
27 the statewide system of intercity passenger rail corridors.

28 (4) The public interest requires expansion of the state intercity
29 passenger rail program in order to keep pace with the needs of an
30 expanding population.

31 (5) For not less than a three-year period *following the effective*
32 *date of the interagency transfer agreement*, the level of state
33 funding for intercity rail service in each corridor ~~should~~ *shall* be
34 maintained at a level equal to at least the ~~current~~ level of service
35 *funded by the state in the corridor as of the effective date of the*
36 *interagency transfer agreement*, thus providing fiscal stability that
37 will allow appropriate planning and operation of these services.

38 (6) ~~It is in the public interest to ensure fiscal accountability that~~
39 ~~the intercity passenger rail service operating in the LOSSAN~~

Corridor maintain a ratio of fare revenue to operating cost of no less than 58 percent.

~~(7) It is in the public interest that the LOSSAN Corridor Joint Powers Agency retain an individual to manage the contract with the state who has previous experience operating or managing intercity or commuter passenger rail services.~~

SEC. 3. Section 14031.9 is added to the Government Code, to read:

14031.9. (a) (1) This section shall apply only to the San Diego-Los Angeles-San Luis Obispo (LOSSAN) Corridor, and only if that corridor is the subject of an interagency transfer agreement. ~~Section 14031.8 shall not apply to that corridor except as specifically provided.~~

(2) The Secretary of Business, Transportation and Housing shall establish, through an annual budget process, the level of state funding available for the operation of intercity passenger rail service, *including associated feeder bus service*, in the LOSSAN Corridor.

(b) Where applicable, operating funds shall be allocated by the secretary to the LOSSAN Corridor Joint Powers Agency in accordance with the interagency transfer agreement that includes mutually agreed-upon rail services. Funds for the administration and marketing of services, as appropriate, shall also be transferred by the secretary to the LOSSAN Corridor Joint Powers Agency, subject to the terms of the interagency transfer agreement.

(c) The LOSSAN Corridor Joint Powers Agency or *local or regional agencies* may, but shall not be required to, augment state-provided resources to expand intercity passenger rail services using local resources, or to address funding shortfalls in achieving agreed-upon performance standards. *The LOSSAN Corridor Joint Powers Agency or local or regional agencies may identify and secure new supplemental sources of funding for the purpose of expanding or maintaining intercity rail passenger rail service levels, which may include state and federal intercity rail resources. Local resources may be available to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity rail services identified in subdivision (b) only if the resources are dedicated by a vote of the local agency providing the funds, with the concurrence of the LOSSAN Corridor Joint Powers Agency.*

(d) The department may provide any support services as may be mutually agreed upon by the ~~board~~ LOSSAN Corridor Joint Powers Agency and the department.

(e) Operating costs shall be controlled by dealing with, at a minimum, the Amtrak cost allocation formula and the ability to contract out to Amtrak or other rail operators as a part of federal legislation dealing with Amtrak reauthorization.

~~(f) The performance standards adopted pursuant to subdivision (f) of Section 14031.8 shall apply to the LOSSAN Corridor to the extent it is among the corridors subject to an interagency transfer agreement. To~~ (1) *Not later than June 30, 2014, the secretary shall establish a set of uniform performance standards for all corridors and operators to control cost and improve efficiency.*

(2) *To the extent necessary, as determined by the secretary, performance standards may be modified not later than December 31, 2014, relative to the LOSSAN Corridor to the extent it is among the corridors subject to an July 30, 2015, or the effective date of the interagency transfer agreement, whichever comes first.*

(3) *Feeder bus services that provide connections for intercity rail passenger service shall not be terminated unless the bus services fail to meet the cost-effectiveness standard described in paragraph (3) of subdivision (a) of Section 14035.2.*

~~(g) Notwithstanding any other provision of this section, local resources described in subdivision (e) shall not be available for expenditure to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity passenger rail services as identified in subdivision (b).~~

SEC. 4. Section 14070.3 is added to the Government Code, to read:

14070.3. (a) If authorized by the secretary, the department may, through an interagency transfer agreement, transfer to the LOSSAN Corridor Joint Powers Agency, and that agency may assume, all responsibility for administering state-funded intercity passenger rail service, *including associated feeder bus service*, in the San Diego-Los Angeles-San Luis Obispo (LOSSAN) Corridor. Upon the date specified in the agreement, the LOSSAN Corridor Joint Powers Agency shall succeed to the department's powers and duties relative to that service, except that the department shall retain responsibility for developing budget requests for the service, *consistent with the annual business plan as approved by the*

1 *secretary for the service*, through the state budget process, which
2 shall be developed in consultation with that agency, and for
3 coordinating service in the corridor with other intercity passenger
4 rail services in the state.

5 (b) With respect to the LOSSAN Corridor, an interagency
6 transfer agreement ~~pursuant to subdivision (a)~~ *shall may* be entered
7 into on or before June 30, 2014, *but not later than June 30, 2015*,
8 subject to negotiation and approval by the state and the LOSSAN
9 Corridor Joint Powers Agency. *The interagency transfer agreement*
10 *between the department and the LOSSAN Corridor Joint Powers*
11 *Agency shall cover the initial three-year period after the transfer;*
12 *but may be extended thereafter by mutual agreement. If an*
13 *interagency agreement is not entered into on or before June 30,*
14 *2015, the secretary shall provide a report to the Governor and the*
15 *Legislature on or before June 30, 2016, explaining why an*
16 *acceptable agreement has not been developed, with specific*
17 *recommendations for developing an acceptable interagency*
18 *agreement.*

19 (c) The secretary shall require the LOSSAN Corridor Joint
20 Powers Agency to demonstrate the ability to meet the performance
21 standards established by the secretary pursuant to ~~subdivision (f)~~
22 ~~of Section 14031.8 or subdivision (f) of Section 14031.9, whichever~~
23 ~~is applicable.~~

24 (d) Section 14070.2 shall not apply to the LOSSAN Corridor.

25 SEC. 5. Section 14070.5 is added to the Government Code, to
26 read:

27 14070.5. (a) An interagency transfer agreement between the
28 department and the LOSSAN Corridor Joint Powers Agency, when
29 approved by the secretary, shall do all of the following:

30 (1) Specify the date and conditions for the transfer of
31 responsibilities and identify the annual level of funding *for the*
32 *initial three years following the transfer* and ensure that the level
33 of funding is consistent with and sufficient for the planned service
34 improvements within the LOSSAN Corridor. ~~The interagency~~
35 ~~transfer agreement shall cover the initial three-year period after~~
36 ~~the transfer, but may be extended thereafter by mutual agreement.~~

37 (2) Identify, for the initial year and subsequent years, the funds
38 to be transferred to the agency including state operating subsidies
39 made available for intercity rail services in the corridor, and funds
40 currently used by the department for administration and marketing

1 of the corridor, with the amounts adjusted annually for inflation
2 and in accordance with the business plan.

3 (3) Specify the level of service to be provided, the respective
4 responsibilities of the agency and the department, the methods that
5 the department will use to ensure the coordination of services with
6 other rail passenger *and feeder bus* services in the state, and the
7 methods that the department will use for the annual review of the
8 business plan and annual proposals on funding and appropriations.

9 (4) Describe the terms ~~for transferring to~~ *of use by* the LOSSAN
10 Corridor Joint Powers Agency *of* car and locomotive train sets,
11 and other equipment and property owned by the department and
12 required for intercity passenger rail service in the LOSSAN
13 Corridor, including, but not limited to, the number of units to be
14 provided, liability coverage, maintenance and warranty
15 responsibilities, and indemnification issues.

16 (5) Describe auditing responsibilities and process requirements,
17 reimbursement and billing procedures, the responsibility for
18 funding shortfalls, if any, during the course of each fiscal year, an
19 operating contract oversight review process, performance standards
20 and reporting procedures, the level of rail infrastructure
21 maintenance, and other relevant monitoring procedures. ~~The~~
22 ~~description shall contain an evaluation of the impact of any transfer~~
23 ~~of equipment on other intercity corridors. The agreement shall~~
24 ~~endeavor to minimize the impact and maximize the efficient use~~
25 ~~of the equipment, including continued joint use of equipment that~~
26 ~~is currently shared by one or more corridors.~~

27 (b) Use of the annual state funding allocation, as set forth in the
28 interagency transfer agreement, shall be described in an annual
29 business plan submitted by the LOSSAN Corridor Joint Powers
30 Agency to the secretary for review and recommendation by April
31 1 of each year. The business plan, when approved by the secretary,
32 shall be deemed accepted by the state. The budget proposal
33 developed by the department for the subsequent year shall be based
34 upon the business plan approved by the secretary. The business
35 plan shall be consistent with the interagency transfer agreement,
36 and shall include a report on the recent as well as historical
37 performance of the corridor service, an overall operating plan
38 including proposed service enhancements to increase ridership
39 and provide for increased traveler demands in the corridor for the
40 upcoming year, short-term and long-term capital improvement

1 programs, funding requirements for the upcoming fiscal year, and
 2 an action plan with specific performance goals and objectives. The
 3 business plan shall document service improvements to provide the
 4 planned level of service, inclusion of operating plans to serve peak
 5 period work trips, and consideration of other service expansions
 6 and enhancements. The initial business plan shall be consistent
 7 with the immediately previous State Rail Plan developed by the
 8 department pursuant to Section 14036 *and the January 2014*
 9 *business plan developed by the High-Speed Rail Authority pursuant*
 10 *to Section 185033 of the Public Utilities Code. Subsequent business*
 11 *plans shall be consistent with the immediately previous plans*
 12 *developed by the department and the authority.* The business plan
 13 shall clearly delineate how funding and accounting for
 14 state-sponsored intercity passenger rail services shall be separate
 15 from locally sponsored services in the corridor. Proposals to expand
 16 or modify intercity passenger rail services shall be accompanied
 17 by the identification of all associated costs and ridership
 18 projections. The business plan shall establish, among other things:
 19 fares, operating strategies, capital improvements needed, and
 20 marketing and operational strategies designed to meet performance
 21 standards established in the interagency transfer agreement.

22 (c) Based on the annual business plan and the subsequent
 23 appropriation by the Legislature the secretary shall allocate state
 24 funds on an annual basis to the LOSSAN Corridor Joint Powers
 25 Agency. As provided in the interagency transfer agreement, any
 26 additional funds that are needed to operate the passenger rail
 27 service during a fiscal year ~~may~~ *shall* be provided by the LOSSAN
 28 Corridor Joint Powers Agency from jurisdictions that receive
 29 service. In addition, the LOSSAN Corridor Joint Powers Agency
 30 may use any cost savings or farebox revenues to provide service
 31 improvements related to intercity service. In any event, the agency
 32 shall report the fiscal results of the previous year's operations as
 33 part of the annual business plan.

34 ~~(d) (1) The level of service funded by the state in the LOSSAN~~
 35 ~~Corridor shall be at an appropriate level as determined in the~~
 36 ~~interagency transfer agreement.~~

37 ~~(2) For not less than a three-year period, the level of state~~
 38 ~~funding for intercity passenger rail service in the LOSSAN~~
 39 ~~Corridor shall be maintained at a level equal to at least the current~~
 40 ~~level of service provided in the corridor as of January 1, 2014.~~

~~(3) Subject to Section 14035.2, the level of funding provided by the state in the LOSSAN Corridor shall also include funding at the same level provided as of January 1, 2013, for feeder bus service that is operated in conjunction with the trains. However, the interagency transfer agreement shall not prohibit the LOSSAN Corridor Joint Powers Agency from reducing the number of feeder bus route miles if it determines that a feeder bus route is not cost effective as provided in Section 14035.2.~~

~~(e)~~

~~Feeder bus services that provide connections for intercity rail passengers from the LOSSAN Corridor to the state-supported San Joaquin passenger rail service shall not be terminated unless the bus services fail to meet the cost-effectiveness standard described in paragraph (3) of subdivision (a) of Section 14035.2.~~

(d) The level of service funded by the state during the first three years following the effective date of the transfer agreement shall in no case be less than the number of intercity round trips operated in a corridor and serving the end points currently served by the intercity rail corridor as of the effective date of the interagency transfer agreement. Subject to Section 14035.2, the level of service funded by the state shall also include feeder bus service with substantially the same number of route miles as the current feeder system, to be operated in conjunction with the trains. For that same three-year period, the LOSSAN Corridor Joint Powers Agency shall continue to provide at least the same level of intercity rail and feeder bus services as were in operation on the effective date of the interagency transfer agreement, except that the interagency transfer agreement shall not prohibit the agency from reducing the number of feeder bus route miles if the agency determines that a feeder bus route is not cost effective as provided in Section 14035.2.

~~(f)~~

~~(e) Nothing in this article shall be construed to preclude expansion of state-approved intercity passenger rail service.~~

~~(g) Notwithstanding any other provision of this section, local resources described in subdivision (e) shall not be available for expenditure to offset any redirection, elimination, reduction, or reclassification by the state of state resources for operating intercity passenger rail services.~~

1 ~~(h) The passenger rail equipment regularly used for intercity~~
2 ~~passenger rail service on the LOSSAN Corridor shall be the same~~
3 ~~type of equipment regularly used on other intercity corridors funded~~
4 ~~by the state. The purpose of this requirement is to ensure that there~~
5 ~~is a statewide pool of common intercity passenger rail equipment~~
6 ~~for purposes of interoperability among the state-funded corridors~~
7 ~~and for vehicle fleet management.~~

8 ~~(f) Local resources may be available to offset any redirection,~~
9 ~~elimination, reduction, or reclassification by the state of state~~
10 ~~resources for operating intercity rail services identified in~~
11 ~~subdivision (b) only if the local resources are dedicated by a vote~~
12 ~~of the local agency providing the funds, with the concurrence of~~
13 ~~the LOSSAN Rail Corridor Agency.~~

14 ~~(i)~~

15 ~~(g) Section 14070.4 shall not apply to the LOSSAN Corridor.~~

16 SEC. 6. Section 14070.7 is added to the Government Code, to
17 read:

18 14070.7. The department and the LOSSAN Rail Corridor
19 Agency, to the extent the agency assumes administrative
20 responsibility for intercity passenger rail services on the LOSSAN
21 Corridor through an interagency transfer agreement, may, through
22 a competitive solicitation process, contract with Amtrak or with
23 organizations authorized by state or federal law to provide intercity
24 passenger rail services, and may contract with rail corporations
25 and other rail operators for the use of the tracks and other facilities
26 and for the provision of intercity passenger rail services on terms
27 and conditions as the parties may agree. The department is deemed
28 to be a third-party beneficiary of the contract, and the contract
29 shall not contain any provision or condition that would negatively
30 impact on or conflict with any other contracts the department has
31 regarding intercity passenger rail services. The LOSSAN Rail
32 Corridor Agency, if it succeeds the department as sponsor of
33 state-supported intercity passenger rail services on the LOSSAN
34 Corridor through an interagency transfer agreement, is deemed to
35 be an agency of the state for all purposes related to intercity
36 passenger rail services, including Section 5311 of Title 49 of the
37 United States Code. *If the intercity passenger rail service is*
38 *operated by a contractor, the contractor shall, as a condition of*
39 *entering into an operating agreement with the LOSSAN Rail*
40 *Corridor Agency, agree that its labor relations shall be governed*

1 *by the federal Railway Labor Act (45 U.S.C. Sec. 151 and*
2 *following).*

3 Section 14070.6 shall not apply to the LOSSAN Corridor.

4 SEC. 7. Article 5.2 (commencing with Section 14072) of
5 Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
6 Code is repealed.

7 SEC. 8. Article 5.2 (commencing with Section 14072) is added
8 to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government
9 Code, to read:

10

11 Article 5.2. LOSSAN Corridor

12

13 14072. (a) The LOSSAN Rail Corridor Agency, also known
14 as the LOSSAN Agency, is an existing joint powers authority
15 established to provide an organization capable of implementing
16 the recommendations contained in the State Rail Corridor Study
17 Group's June 1987 report entitled "Los Angeles-San Diego State
18 Rail Corridor Study" and undertaking related efforts to improve
19 intercity services and facilities in the corridor and to coordinate
20 subcorridor commuter rail services with intercity services. The
21 LOSSAN Agency is composed of voting members, as specified
22 in the joint powers agreement.

23 (b) "LOSSAN Corridor" or "LOSSAN Rail Corridor" means
24 the San Diego-Los Angeles-San Luis Obispo intercity passenger
25 rail corridor.

26 14072.2. This article shall be applicable only if the members
27 of the LOSSAN Agency enter into an amended joint powers
28 agreement to expand the authority of the agency to permit the
29 administration of state-funded intercity passenger rail services on
30 the LOSSAN Corridor, and the LOSSAN Agency thereafter elects
31 to become a party to an interagency transfer agreement pursuant
32 to Article 5 (commencing with Section 14070). The amended joint
33 powers agreement shall establish the terms and conditions for the
34 joint powers agency and is subject to the approval of the governing
35 board of each member agency of the LOSSAN Agency. Only the
36 LOSSAN Agency operating under the amended joint powers
37 agreement, and not the LOSSAN Agency existing on January 1,

- 1 2013, may exercise jurisdiction over intercity rail services on the
- 2 LOSSAN Corridor under an interagency transfer agreement.

O